

AMENDED IN ASSEMBLY JUNE 10, 2008

AMENDED IN SENATE APRIL 9, 2008

SENATE BILL

No. 1519

Introduced by Senator Yee

February 22, 2008

An act to add ~~Section 53075.8~~ Sections 53075.7, 53075.8, and 53075.9 to the Government Code, relating to taxicabs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1519, as amended, Yee. Local governments: taxicabs.

(1) Existing law requires every city or county to adopt an ordinance or resolution regarding taxicab transportation service, including, but not limited to, provisions for a policy for the entry into the business of providing taxicab transportation service and for the establishment or registration of rates for the provision of that service.

This bill would require the local agency, defined as the local entity responsible for the regulation of, and enforcement of, rules, regulations, or ordinances governing, taxicabs within the local jurisdiction, upon receipt of a complaint containing sufficient information to warrant conducting an investigation, to investigate any business that advertises a taxicab transportation service for hire identified in the complaint. The bill would require the local agency, by ordinance, resolution, or other appropriate procedure, to adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation.

This bill would also require every taxicab transportation service to include the number of its certificate, license, or permit in every written or oral advertisement, as defined, of the services it offers, and would authorize the local agency to impose a fine of not more than \$5,000 if

it finds, after a hearing, that a person or corporation is operating as a taxicab transportation service without a valid certificate, license, or permit, or fails to include the number of the certificate or permit in any written or oral advertisement.

Existing

(2) *Existing* law provides for the termination of telephone service by a telephone corporation or telegraph corporation to a charter-party carrier of passengers without a valid certificate or permit, pursuant to specified procedures by the Public Utilities Commission.

This bill would provide for the termination of telephone service by a telephone corporation or telegraph corporation to a taxicab transportation service without a valid certificate, license, or permit and places enforcement of this prohibition with the ~~regulator, as defined~~ local agency. *By imposing a new or higher level of service upon local governments, this bill would impose a state-mandated local program.*

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53075.7 is added to the Government Code,
2 to read:

3 53075.7. (a) *Upon receipt of a complaint containing sufficient*
4 *information to warrant conducting an investigation, the local*
5 *agency shall investigate any business that advertises or operates*
6 *taxicab transportation service for hire. The local agency shall, by*
7 *ordinance, resolution, or other appropriate procedure, adopt*
8 *criteria that establishes the type of information, if contained in a*
9 *complaint, that is sufficient to warrant an investigation. Pursuant*
10 *to this investigation, the local agency shall do all of the following:*
11 (1) *Determine which businesses, if any, are required to have in*
12 *effect a valid taxicab certificate, license, or permit as required by*
13 *ordinance, but do not have that valid authority to operate.*

1 (2) *Inform any business not having valid authority to operate*
2 *that it is in violation of law.*

3 (3) *Within 60 days of informing the business pursuant to*
4 *paragraph (2), institute civil or criminal proceedings, or both,*
5 *pursuant to the governing municipal code or other authority of*
6 *jurisdiction.*

7 (b) *For purposes of this section:*

8 (1) *“Advertises” means any action described in subdivision (b)*
9 *of Section 53075.9.*

10 (2) *“Local agency” means the local entity responsible for the*
11 *regulation, including, but not limited to, the certification, licensing,*
12 *or permitting of, and enforcement of rules, regulations, or*
13 *ordinances governing, taxicabs within the local jurisdiction.*

14 ~~SECTION 1.~~

15 SEC. 2. Section 53075.8 is added to the Government Code, to
16 read:

17 53075.8. (a) The Legislature finds and declares that advertising
18 and use of telephone service is essential for a taxicab transportation
19 service to obtain business and conduct intrastate passenger
20 transportation services. Unlawful advertisements by taxicabs
21 operating without a valid taxicab certificate, license, or permit
22 required by any ordinance has resulted in properly certificated,
23 licensed, and permitted taxicab operators competing with these
24 taxicabs operating without a proper taxicab certificate, license, or
25 permit using unfair business practices. Taxicabs operating without
26 a proper taxicab certificate, license, or permit have also exposed
27 passengers to unscrupulous persons who portray themselves as
28 lawful operators. Many of these taxicabs operating without a proper
29 taxicab certificate, license, or permit have been found to have also
30 been operating without insurance, or in an unsafe manner, thereby
31 placing their passengers at risk.

32 (b) (1) The Legislature further finds and declares that the
33 termination of telephone service utilized by taxicabs operating
34 without proper authority is essential to ensure the public safety
35 and welfare. Therefore, local taxicab regulatory authorities should
36 take enforcement action, as specified in this section, to disconnect
37 telephone service of unauthorized taxicab operators who unlawfully
38 advertise passenger transportation services in yellow page
39 directories and other publications. The enforcement actions
40 provided for by this section are consistent with the decision of the

1 California Supreme Court in *Goldin v. Public Utilities Commission*
2 (1979) 23 Cal. 3d 638.

3 (2) For purposes of this section, a telephone corporation or
4 telegraph corporation, or a corporation that holds a controlling
5 interest in the telephone or telegraph corporation, or any business
6 that is a subsidiary or affiliate of the telephone or telegraph
7 corporation, that has the name and address of the subscriber to a
8 telephone number being used by a unauthorized taxicab operator
9 shall provide the ~~regulator~~ local agency, or an authorized officer
10 or employee of the ~~regulator~~ local agency, upon demand, and the
11 order of a magistrate, access to this information. A magistrate may
12 only issue an order for the purposes of this subdivision, if the
13 magistrate has made the findings required by subdivision (c).

14 (c) (1) *In addition to any other remedies that may be available*
15 *by law, if a local agency determines that a taxicab transportation*
16 *service has operated within the local agency's jurisdiction in*
17 *violation of the local agency's ordinance adopted under Section*
18 *53075.5, the local agency may notify the taxicab operator that the*
19 *local agency intends to seek termination of the operator's telephone*
20 *service. The notice shall be sent by certified mail to the operator*
21 *at the operator's last known mailing address. If the local agency*
22 *is unable to determine the operator's mailing address, the local*
23 *agency shall post the notice for at least 10 calendar days.*

24 (2) *The notice shall contain sufficient information to identify*
25 *the taxicab transportation service, to inform the taxicab operator*
26 *of the alleged violations of the local agency's ordinance, and the*
27 *procedures for protesting the allegations contained in the notice.*

28 (d) *The taxicab operator, within 10 calendar days of the date*
29 *of the notice, may contest the allegations contained in the notice*
30 *by filing a written protest with the local agency. The local agency*
31 *shall schedule a hearing on the protest within 21 calendar days*
32 *of receiving the protest.*

33 (e) *The governing body of the local agency, or any person or*
34 *persons as may be designated by the governing body, shall hear*
35 *the protest. The local agency shall have both the burden of*
36 *providing that the use made, or to be made, of the telephone service*
37 *is to hold out to the public to perform, or to assist in performing,*
38 *services as a taxicab transportation service, and that the telephone*
39 *service is being, or is to be, used as an instrumentality, directly*
40 *or indirectly, to violate, or assist in violating, the local agency's*

1 applicable ordinance. The taxicab operator, or his or her
2 designated representative, shall be allowed to present evidence to
3 answer or refute any allegations presented to the hearing body by
4 the local agency. The hearing body may continue the hearing from
5 time to time. Within 10 calendar days of the close of the hearing,
6 the hearing body shall issue a written decision to uphold or reject,
7 in whole or in part, the allegations contained in the notice. If the
8 hearing body upholds the allegations in whole or in part, the
9 written decision shall state either that the allegations are sufficient
10 to justify seeking termination of the taxicab operator's telephone
11 service, or that the allegations are not sufficient.

12 (f) (1) If the local agency does not receive a timely protest, or,
13 after a protest hearing held pursuant to subdivision (d), the hearing
14 body has determined that the allegations are sufficient to justify
15 seeking termination of the telephone operator's telephone service,
16 the local agency may seek termination of the taxicab operator's
17 telephone service as provided in this section.

18 (e)
19 (2) A telephone or telegraph corporation shall refuse telephone
20 service to a new subscriber and shall disconnect telephone service
21 of an existing subscriber only after it is shown that other available
22 enforcement remedies of the ~~regulator~~ local agency have failed to
23 terminate unlawful activities detrimental to the public welfare and
24 safety, and upon receipt from any authorized officer or employee
25 of the ~~regulator~~ local agency of a writing, signed by a magistrate,
26 as defined by Sections 807 and 808 of the Penal Code, finding that
27 probable cause exists to believe that the subscriber is advertising
28 or holding out to the public to perform taxicab transportation
29 services ~~without having in force a valid certificate, license, or~~
30 ~~permit issued by the regulator authorizing those services, in~~
31 *violation of the local agency's applicable ordinance*, or that the
32 telephone service otherwise is being used or is to be used as an
33 instrumentality, directly or indirectly, to violate or assist in
34 violation of the laws requiring a taxicab operator to have valid
35 operating authority. Included in the writing of the magistrate shall
36 be a finding that there is probable cause to believe that the subject
37 telephone facilities have been, or are to be, used in the commission
38 or facilitation of holding out to the public to perform taxicab
39 transportation services ~~without having proper authorization to~~
40 ~~provide those services and that, absent immediate and summary~~

1 ~~action, a danger to the public welfare and safety will result. in~~
2 ~~violation of the local agency's applicable ordinance.~~

3 ~~(d) Any person aggrieved by any action taken pursuant to this~~
4 ~~section shall have the right to file a complaint with the regulator~~
5 ~~and may include therein a request for interim relief. The regulator~~
6 ~~shall schedule a public hearing on the complaint to be held within~~
7 ~~21 calendar days of the filing and assignment of a docket number~~
8 ~~to the complaint. The remedy provided by this section shall be~~
9 ~~exclusive. No other action at law or in equity shall accrue against~~
10 ~~any telephone or telegraph corporation because of, or as a result~~
11 ~~of, any matter or thing done or threatened to be done pursuant to~~
12 ~~this section.~~

13 ~~(e) At any hearing held on a complaint filed with the regulator~~
14 ~~pursuant to subdivision (d), the regulator staff shall have the right~~
15 ~~to participate, including the right to present evidence and argument~~
16 ~~and to present and cross-examine witnesses. The regulator staff~~
17 ~~shall have both the burden of providing that the use made, or to~~
18 ~~be made, of the telephone service is to hold out to the public to~~
19 ~~perform, or to assist in performing, services as a taxicab~~
20 ~~transportation service, or that the telephone service is being, or is~~
21 ~~to be, used as an instrumentality, directly or indirectly, to violate,~~
22 ~~or assist in violating, the valid operating authority applicable to~~
23 ~~providers of taxicab transportation services and that the character~~
24 ~~of the acts are such that, absent immediate and summary action,~~
25 ~~a danger to public welfare or safety will result, and the burden of~~
26 ~~persuading the regulator that the telephone services should be~~
27 ~~refused or should not be restored.~~

28 ~~(f)~~

29 ~~(g) The telephone or telegraph corporation, immediately upon~~
30 ~~refusal or disconnection of service in accordance with subdivision~~
31 ~~(c), shall notify the subscriber in writing that the refusal or~~
32 ~~disconnection of telephone service has been made pursuant to a~~
33 ~~request of a regulator local agency and the writing of a magistrate,~~
34 ~~and shall include a copy of this section, a copy of the writing of~~
35 ~~the magistrate, and a statement that the customer of the subscriber~~
36 ~~may request information from the regulator local agency~~
37 ~~concerning any provision of this section and the manner in which~~
38 ~~a complaint may be filed.~~

39 ~~(g)~~

(h) The provisions of this section are an implied term of every contract for telephone service and a part of any application for telephone service. Applicants for, and subscribers and customers of, telephone service, have, as a matter of law, consented to the provisions of this section as a consideration for the furnishing of the telephone service.

~~(h)~~

(i) As used in this section, the terms “person,” “customer,” and “subscriber” include the subscriber to telephone service, any person using the telephone service of a subscriber, an applicant for telephone service, a corporation, a limited liability company, a partnership, an association, and includes their lessees and assigns.

~~(i)~~

(j) As used in this section, the following terms have the following meanings:

(1) “Authorized officer or employee of the ~~regulator~~ local agency” includes any employee of the ~~regulator~~ local agency designated by the ~~authority governing the activities and operations of the regulatory entity~~ local agency’s governing body.

(2) “Regulator” ~~means the local entity responsible for the regulation, including, but not limited to, the certification, licensing, or permitting of, and the enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction.~~

(2) “Local agency” has the same meaning as specified in subdivision (b) of Section 53075.7.

(3) “Telegraph corporation” has the same meaning as specified in Section 236 of the Public Utilities Code.

(4) “Telephone corporation” has the same meaning as specified in Section 234 of the Public Utilities Code.

SEC. 3. Section 53075.9 is added to the Government Code, to read:

53075.9. (a) Every taxicab transportation service shall include the number of its certificate, license, or permit in every written or oral advertisement of the services it offers.

(b) For purposes of this subdivision, “advertisement” includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing the placement of any sign or marking on or in any building or structure, or in any media form, including newspaper, magazine, radiowave, satellite

1 *signal, or any electronic transmission, or in any directory soliciting*
2 *taxicab transportation services subject to this chapter.*

3 *(c) Whenever the local agency, after a hearing, finds that any*
4 *person or corporation is operating as a taxicab transportation*
5 *service without a valid certificate, license, or permit or fails to*
6 *include in any written or oral advertisement the number required*
7 *by subdivision (a) of Section 50739, the local agency may impose*
8 *a fine of not more than five thousand dollars (\$5,000) for each*
9 *violation. The local agency may assess the person or corporation*
10 *an amount sufficient to cover the reasonable expense of*
11 *investigation incurred by the local agency. The local agency may*
12 *assess interest on any fine or assessment imposed, to commence*
13 *on the day the payment of the fine or assessment becomes*
14 *delinquent. All fines, assessments, and interest collected shall be*
15 *deposited at least once each month in a fund established for the*
16 *purpose of enforcing the provisions of this section.*

17 *(d) For purposes of this section, “local agency” has the same*
18 *meaning as specified in subdivision (b) of Section 53075.7.*

19 *SEC. 4. No reimbursement is required by this act pursuant to*
20 *Section 6 of Article XIII B of the California Constitution because*
21 *this act provides for offsetting savings to local agencies or school*
22 *districts that result in no net costs to the local agencies or school*
23 *districts, within the meaning of Section 17556 of the Government*
24 *Code.*